

Response ID ANON-YDHS-F2QU-P

Submitted to Fees and Performance Consultation
Submitted on 2023-04-25 17:26:36

Respondent details

About you

Name:
Rob Lennox

Organisation (if applicable):
Joint response from Chartered Institute for Archaeologists / Association of Local Government Archaeological Officers / Council for British Archaeology

Position in organisation (if applicable):
Policy and Advocacy Manager

Email address:
rob.lennox@archaeologists.net

Postal address (including post-code):

Power Steele Building
Wessex Hall
Whiteknights Road
Reading
RG6 6DE

Please state whether you are responding as an individual or on behalf of the organisation stated above

Organisation

Please indicate in what capacity you are responding to this consultation (please only select one)

Professional association / industry representative body

Planning fees

Question 1: Do you agree that fees for planning applications should be increased by 35% for major applications?

Yes

Please give your reasons:

We support the increasing of planning fees to help offset the historic discrepancy between fees charged and the cost to local authorities. While a 35% increase on fees for major applications does not come close to wholly addressing the disparity, it does make some improvement to the balance of who pays between beneficiaries and taxpayers. We feel that it is appropriate that the fee increase should apply to major applications, where large portions of LPA resource is spent.

Whilst higher fees are to be welcomed, this should not be at the expense of detailed pre-application advice, which remains the key to the successful delivery of planning applications.

We would note that the numbers in paragraphs 14 and 15 do not match. The latter references a shortfall between planning fees and costs of £225m p/a (33%) whereas paragraph 14 sets out a shortfall of £282m, or 41%. Approximately 10 years ago an assessment was done on the true costs of delivering planning applications and we would ask whether this has been considered.

Question 2. Do you agree that the fee for householder planning applications should be increased by 25%?

Yes

Please give your reasons.:

We support the increasing of planning fees to help offset the historic discrepancy between fees charged and the cost to local authorities. While a 25% increase on fees for householders does not come close to wholly addressing the disparity, it does make some improvement to the balance of who pays between beneficiaries and taxpayers, while also recognising that small scale applications are likely to take less LPA time.

Whilst higher fees are to be welcomed, this should not be at the expense of detailed pre-application advice, which remains the key to the successful delivery of planning applications.

We would note that the numbers in paragraphs 14 and 15 do not match. The latter references a shortfall between planning fees and costs of £225m p/a (33%) whereas paragraph 14 sets out a shortfall of £282m, or 41%. Approximately 10 years ago an assessment was done on the true costs of delivering planning applications and we would ask whether this has been considered.

Question 3: Do you agree that fees for all other planning applications should be increased by 25%?

Yes

If not, please include in the comments box below the particular application types where you believe the proposed increase is too high or too low. Your comments should be accompanied with evidence / costs if possible.:

We support the increasing of planning fees to help offset the historic discrepancy between fees charged and the cost to local authorities. While a 25% increase on all other fees does not come close to wholly addressing the disparity, it does make some improvement to the balance of who pays between beneficiaries and taxpayers.

Whilst higher fees are to be welcomed, this should not be at the expense of detailed pre-application advice, which remains the key to the successful delivery of planning applications.

We would note that the numbers in paragraphs 14 and 15 do not match. The latter references a shortfall between planning fees and costs of £225m p/a (33%) whereas paragraph 14 sets out a shortfall of £282m, or 41%. Approximately 10 years ago an assessment was done on the true costs of delivering planning applications and we would whether this has been considered.

Question 4: Are there any other application types or planning services which are not currently charged for but should require a fee or for which the current fee level or structure is inadequate?

Yes

Please explain.:

We consider that the fixed fees of £236 for both non-material amendments and for the removal/variation of planning conditions (Sections 73 & 73A applications) need review as both can involve significant amounts of new work by the LPA and its specialist advisers.

'Permission in Principle' applications should also be reviewed.

Question 5. Please can you provide examples of bespoke or 'fast track' services which have worked well or you think could be introduced for an additional fee. Are there any schemes that have been particularly effective?

Please give your reasons:

Archaeological services provided between local authorities are often charged/recharged at cost, either by direct invoicing or Service Level Agreements. The model works effectively, and an increase in fees should in principle allow the specialist historic environment services that LPAs rely upon to be correctly and sufficiently funded.

Planning Performance Agreements are effective when comprehensive and when both parties engage with them. Problems can occur where there is a blurring of the statutory and non-statutory stages of work on these major projects, so clarity over the application, scope and use of PPAs would be of benefit.

More generally we would be wary of any fast track planning process. In our experience, delays are mostly down to poor quality applications and/or slow response from consultees and other factors out of LPA control. A 'fast' decision is best achieved by an applicant:

- appointing an appropriately experienced planning agent
- seeking pre-application advice from the planning authority, its specialist teams e.g highways, ecologist and statutory consultees (except for straightforward applications), and
- being willing to pay for other relevant competent specialists to undertake appropriately robust assessments and provide appropriately detailed reports to accompany the planning application.

Question 6: Do you agree with the proposal for all planning fees to be adjusted annually in line with inflation?

Yes

Please give your reasons:

Yes. Many local authority costs are adjusted annually in line with inflation so if the costs of delivering an application rise with it, so should the fees.

Question 7: Do you consider that the additional income arising from the proposed fee increase should be ringfenced for spending within the local authority planning department?

Yes

Please give your reasons:

Yes. It is vital that any revenue generated from fee increases is ring-fenced for spending to improve planning capacity and performance. Not doing so would risk piling additional responsibilities on LPAs without improving service quality, which would result in the exacerbation of identified problems.

Question 8: Do you agree that the fee for retrospective applications should be doubled, i.e. increased by 100%, for all applications except for householder applications?

Yes

Please give your reasons:

Yes, we support increasing the fee for retrospective applications as a deterrent which should help to lower risks posed to heritage assets by applications which have not been subject to planning checks. However, consideration should be made of whether any increase in fees will deter an application and perhaps raise the need for stronger enforcement.

Question 9: Do you consider that the ability for a 'free-go' for repeat applications should be either:

removed

Please give your reasons. :

We are grateful that Government has recognised the practice of low quality first applications and strongly support policies which encourage applicants to provide high quality information first time. For this reason we support the removal of 'free go' applications. We would however, be happy with a discretionary system whereby the planning authority could waive a re-application fee within 12 months if there were specific circumstances dictate that a new application would deliver better planning outcomes and both applicant and LPA have acted in good faith.

However, given that Government has recognised this perverse incentives that leads to applicants submitting poor quality applications, we would welcome further recognition of similar behaviours which reduce the quality of applications, or increase the likelihood of delays. Addressing the applicant-side issues such as 'poor quality heritage assessments' is necessary, particularly given the 'quid pro quo' performance targets attached to these proposals for fee increases.

It is worth noting that some types of application (e.g. Regulation 3 applications to a county council) have no right of appeal, so it is sometimes better to have the ability to withdraw and resubmit in these circumstances.

Question 10: Do you agree that a fee of £96 (or £120 if the proposed fee increase comes forward) should be charged for any prior approval application for development by the Crown on a closed defence site?

Don't know

Please provide any comments here:

Local planning authority capacity and capability

Question 11: What do you consider to be the greatest skills and expertise gaps within local planning authorities?

Text box for comments:

We would like to highlight skills gaps in historic environment services, including conservation and archaeology. In particular, there are often concerns that services are not able to adequately succession plan among small teams. This can especially be a problem in services where chronic underfunding over many years has meant that critical capacity has only been maintained due to the specific expertise of individuals (often with decades of experience) rather than strategic investment in systems and in training junior staff.

Another concern is that specialist historic environment staff often do not always have the necessary resource or authority to work effectively alongside planning or other specialist colleagues on plan-making or strategic issues. This limits the effectiveness of strategic advice and public benefit arising from management of the historic environment.

In terms of skills development, it is concerning that planning degrees are removing conservation and heritage modules from accredited planning qualifications and degree programmes. Furthermore, training to help prepare specialists in archaeology and conservation is not readily available. Few local authority specialist roles in heritage, conservation, or archaeology, offer comprehensive training. We would welcome government support for training for local authority planners and specialists to prepare them for innovative digital methods that should be being encouraged as part of the digital planning agenda. For instance, for archaeological work, there is a the dramatically increasing potential for scientific and technological methods (e.g. remote sensing, aDNA, precision dating, stable isotopes) which should be recognised in the resources needed for ongoing training and CPD for those who may be involved in providing advice and agreeing written schemes of investigation.

Question 12: In addition to increasing planning fees, in what other ways could the Government support greater capacity and capability within local planning departments and pathways into the profession? Please provide examples of existing good practice or initiatives if possible.

Text box for comments:

The major problem is attracting, developing and retaining the right people in local authority planning departments. Morale is low and as there are fewer officers dealing with increased workloads this declines further.

In our view, a generation of publicly blaming 'red tape' within planning for delays in getting things built is likely to have contributed to poor sense of contribution to public goods, and therefore a less attractive career. Our response to Question 5 above sets out the principal reasons for planning applications often taking a lot longer than the statutory period to be determined. Furthermore, we would remove the proportion of applications determined within the statutory or agreed timescale as a measure of planning authority's performance – at least in cases where the delays are due to the submission of inadequate applications. Instead there should be incentives places on both parties to engage in good faith from the first application.

This could be achieved by

- providing better advice to all on what information is needed by planners to make high quality decisions.
- creating templates that the public and planning agents can use to assist in submissions.
- supporting the professional registers of accredited planning agents and specialists that can assist in preparing high quality planning applications
- resourcing external statutory consultees as well as internal ones to ensure a timely and bespoke response on planning applications.
- helping the public understand what is and is not a planning matter to reduce time lost on non-material issues
- further incentives such as apprenticeships to attract and retain skilled professionals.

Question 13: How do you suggest we encourage people from under-represented groups, including women and ethnic minority groups, to become planning professionals?

Text box for comments:

LPA's often have very flexible working environments to encourage applicants from such groups, and post-Covid working arrangement have increased further the possibility for flexible/home or remote working, condensed hours, part time, and job share possibilities. However, we also reiterate our comments above about improving the image of the profession and emphasising the public benefit of planning in order to attract talent and interest from candidates looking to give back to local communities. This is one reason that we support a strong statutory 'purpose of planning'.

Local planning authority performance

Question 14: Do you agree that the Planning Guarantee should better mirror the statutory determination period for a planning application and be set at 16 weeks for non-major applications and retained at 26 weeks for major applications?

No

Please give your reasons:

Reducing the planning guarantee for householder applications to 16 weeks represents a 40% reduction in time to process applications in return for a 25% increase in fees. We are also concerned that poor implementation of this tightened deadline could lead to further corners being cut and reduced quality of decision-making – particularly in the period immediately following a fee increase.

While we are sympathetic to Government's desire to ensure that increased fees improve planning performance, we are concerned that reducing the planning guarantee to 16 weeks would be a tall order for many planning departments. We could support this quid pro quo subject to a significant transition period (c. 2 years) that would allow for the time that it will take planning departments to adjust and develop processes and capacity in response to increased resources following the increase of fees.

We do approve of the retention of a 26 week guarantee for major applications, even though in practice the complexity of many major applications leads to the extension of the 26-week deadline by mutual agreement. However, we disagree that the causes underlying this issue are primarily related to masking poor planning authority performance. Therefore this issues needs to be addressed in other ways, particularly via stronger focus on applicant behaviours and the use of pre-application processes. Please see above our view of the most common cause of delayed applications.

For consistency, we suggest that where the Planning Guarantee applies to EIA applications it should be increased from 26 to 32 weeks.

Question 15: Do you agree that the performance of local planning authorities for speed of decision-making should be assessed on the percentage of applications that are determined within the statutory determination period, i.e. excluding Extension of Times and Planning Performance Agreements?

No

Please give your reasons:

We disagree that the practice of Extension of time agreements or PPAs is in any major way associated with poor planning performance. Many major applications are of a scope and scale of complexity that the statutory targets are not reasonable. For instance, there is a huge difference between a 10 dwelling major development and a 2000 dwelling major development. Some schemes, e.g. mineral applications are almost impossible to determine in these timescales. The only meaningful measurement of planning performance is an agreed extension. In addition, the scope for obfuscating practices such as poor communication or poor quality documentation from applicants is just as prevalent as from local authorities.

We recommend that if Government wishes to improve performance against major developments that a more nuanced approach to measurement is developed.

The guidance in the past has been to accept submission documents at face value for validation purposes. The proposed exclusion of extensions of time would lead to planning authorities refusing to validate applications where a document meets the local validation list requirements in name only but they know to be deficient in content. This is likely to lead to an increase in use of the article 12 notice by applicants and ultimately appeals against

non-determination.

If the Government intends to apply this performance measure it should only apply to applications that can be determined on the basis of the application as it was when first valid. Any need for further information arising through the consultation process or amendments by the applicant for example, would render it ineligible for this performance measurement.

Question 16: Do you agree that performance should be assessed separately for:

Assess performance separately - Major applications:

Yes

Assess performance separately - Non-Major applications (excluding householder applications):

Yes

Assess performance separately - Householder applications:

Yes

Assess performance separately - Discharge of conditions:

Yes

Assess performance separately - County matters applications:

Yes

Please give your reasons:

There should be a separate category for EIA applications.

However, we do not agree that determination time is a fair measure of a planning authority's performance. We strongly disagree with the assumption that extension of time agreements mask poor performance by a local planning authority. As already noted, the speed of determination is largely down to the quality of the submission and the time taken by the applicant to provide additional necessary information.

Question 17: Do you consider that any of the proposed quantitative metrics should not be included?

No

Please give your reasons and, if appropriate, state the metric letter(s) and number(s) that you believe should not be included.:

We strongly support metrics which measure quality of decision-making over speed, because these are less easily abused to mask poor quality planning outcomes. However please note our concerns over anything that can discourage the use of Extensions of Time.

We would also support the other measurements subject to an understanding that information is used to guide improvement of services and provide the basis for research to better understand planning issues, and not simply to apply punitive measures to authorities.

For instance, measurement of various of the proposed metrics could provide a basis for understanding the effects of certain planning changes.

Question 18: Are there any quantitative metrics that have not been included that should be?

No

Please indicate what, if any, additional quantitative metrics you consider should be included:

We would suggest the following is considered to assess the quality of applications and ensuing impact on the planning authority's performance, especially on major schemes.

- how many are submitted by agents that are not qualified planners;
- how many are invalid on submission; and
- how few were based on pre-application advice.

Question 19: Do you support the introduction of a qualitative metric that measures customer experience?

Yes

Please give your reasons:

We would be concerned that a 'customer satisfaction' metric may end up simply being a proxy for 'did the application get permitted' or 'did the LPA give the application a tough time'. However, a nuanced metric that targeted responses on specific issues, e.g. officers advice, pre-application advice, planning committee, etc. could provide useful information.

We also wish to reiterate that most of the delays and the 'hard time' given to applications by the LPA are down to an applicant's own, or their agent's, failings and/or a public failure to understand the role and scope of planning.

Question 20: What do you consider would be the best metric(s) for measuring customer experience?

Text box for comments:

We believe applicants would rather work with LPAs over a reasonable period of time to enable a decision that meets their needs (and is also balanced with legitimate community and environmental requirements) rather than receive a refusal within a set and unrealistic timeframe resulting in resubmission or appeal.

Question 21: Are there any other ways in which the performance of local planning authorities or level of community engagement could be improved?

Text box for comments:

The public would benefit from a clear understanding of what planning can and cannot cover. Too many controversial applications become mired in perceived environment issues simply because the community does not want the development but cannot find a reason in planning to oppose it. Education is key here.

Public Sector Equality Duty

Question 22: Do you have any views on the implications of the proposals in this consultation for you, or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

Text box for PSED comments: